
By: **Senator Della**

Introduced and read first time: January 27, 2003

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts - Personal Representatives - Compensation**

3 FOR the purpose of requiring a lawyer who prepares a will naming the lawyer as
4 personal representative to disclose certain information relating to compensation
5 of personal representatives to the client; requiring the disclosure to be in writing
6 and signed by the client; providing that a personal representative is not entitled
7 to compensation under certain circumstances; requiring the written disclosure
8 to be attached to certain documents filed with the orphans' court or register of
9 wills; providing for the application of this Act; and generally relating to
10 compensation of personal representatives of decedents' estates.

11 BY adding to
12 Article - Estates and Trusts
13 Section 4-102.1
14 Annotated Code of Maryland
15 (2001 Replacement Volume and 2002 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Estates and Trusts
18 Section 7-601
19 Annotated Code of Maryland
20 (2001 Replacement Volume and 2002 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - Estates and Trusts**

24 4-102.1.

25 (A) BEFORE A LAWYER PREPARES A WILL THAT NAMES THE LAWYER AS
26 PERSONAL REPRESENTATIVE, THE LAWYER SHALL DISCLOSE TO THE CLIENT:

27 (1) THAT A PERSONAL REPRESENTATIVE OF AN ESTATE IS ENTITLED TO
28 REASONABLE COMPENSATION FOR SERVICES; AND

1 (2) HOW THE MAXIMUM AMOUNT OF COMPENSATION IS COMPUTED
2 UNDER § 7-601 OF THIS ARTICLE.

3 (B) THE DISCLOSURE SHALL BE:

4 (1) IN WRITING; AND

5 (2) SIGNED AND DATED BY THE CLIENT.

6 7-601.

7 (a) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
8 A personal representative or special administrator is entitled to reasonable
9 compensation for services. If a will provides a stated compensation for the personal
10 representative, additional compensation shall be allowed if the provision is
11 insufficient in the judgment of the court. The personal representative or special
12 administrator may renounce at any time all or a part of the right to compensation.

13 (2) (I) IF THE PERSONAL REPRESENTATIVE IS A LAWYER WHO
14 PREPARED THE WILL NAMING THE LAWYER AS PERSONAL REPRESENTATIVE, THE
15 PERSONAL REPRESENTATIVE IS NOT ENTITLED TO COMPENSATION UNLESS THE
16 DISCLOSURE REQUIRED UNDER § 4-102.1 OF THIS ARTICLE WAS MADE.

17 (II) THE PERSONAL REPRESENTATIVE SHALL ATTACH A COPY OF
18 THE WRITTEN DISCLOSURE REQUIRED UNDER § 4-102.1 OF THIS ARTICLE TO:

19 1. A PETITION FOR PERSONAL REPRESENTATIVE'S
20 COMMISSIONS FILED WITH THE COURT; OR

21 2. THE CONSENT FORMS FILED WITH THE REGISTER UNDER
22 § 7-604 OF THIS SUBTITLE.

23 (b) Unless the will provides a larger measure of compensation, upon petition
24 filed in reasonable detail by the personal representative or special administrator the
25 court may allow the commissions it considers appropriate. The commissions may not
26 exceed those computed in accordance with the table in this subsection.

27 If the property subject to administration is: The commission may

28 not exceed:

29 Not over \$20,000..... 9%
30 Over \$20,000 \$1,800 plus 3.6% of the
31 excess over \$20,000

32 (c) Within 30 days a personal representative, special administrator, or
33 unsuccessful exceptant may appeal the allowance to the circuit court, which shall
34 determine the adequacy of the commissions and increase, but not in excess of the
35 above schedule, or decrease them.

36 (d) If the personal representative retains the services of a licensed real estate
37 broker to aid in the sale of real property, the commissions paid to the real estate

1 broker are an expense of administration and may not be deducted from the
2 commissions allowed by the court to the personal representative in accordance with
3 subsection (a) of this section.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
5 construed to apply only prospectively and may not be applied or interpreted to have
6 any effect on or application to any will executed before the effective date of this Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2003.